

**FLATHEAD COUNTY PLANNING BOARD  
MINUTES OF THE MEETING  
APRIL 19, 2006**

**CALL TO  
ORDER**

A meeting of the Flathead County Planning Board was called to order at approximately 6:00 p.m. Board members present were Charles Lapp, Don Hines, Jeff Larsen, Gene Dziza, Randy Toavs, Kim Fleming, Gordon Cross, and Frank DeKort. Kathy Robertson had an excused absence. Rebecca Shaw, Traci Sears-Tull and Jeff Harris represented the Flathead County Planning & Zoning Office.

There were approximately 32 people in the audience.

**APPROVAL OF  
MINUTES**

No minutes were approved.

**PUBLIC  
REVIEW**

Jeff Larsen reviewed the public hearing process for the public.

**PRELIMINARY  
PLAT/  
FPP 06-01**

A request by Schumacher Development for Preliminary Plat approval of the Amended Plat of Lot 7 of Whitefish Hills, Phase 1, a two (2) lot single-family residential subdivision on 40.129 acres. All lots in the subdivision are proposed to have individual water and septic systems. The property is located off Whitefish Hills Drive.

**STAFF REPORT**

Rebecca Shaw reviewed Staff Report FPP 06-01 for the Board.

**APPLICANT**

Eric Mulcahy, of Sands Surveying, represented the applicant. He concurred with the Staff Report and recommendation.

Fleming asked how many times this has been divided since the original subdivision.

Mulcahy said Phase III was redone and there is one more parcel, after tonight's project, which could be divided.

**AGENCIES**

None present.

**PUBLIC  
COMMENT**

None.

**STAFF  
REBUTTAL**

None.

**APPLICANT  
REBUTTAL**

None.

**MOTION**

Dziza made a motion seconded by Hines to adopt Staff Report FPP 06-01 and recommended approval to the County Commissioners.

<b>BOARD DISCUSSION</b>	None.
<b>ROLL CALL</b>	On a roll call vote the motion passed unanimously.
<b>PRELIMINARY PLAT/ FPP 06-03</b>	A request by Kerry and Maria Marvin for Preliminary Plat approval of the Amended Plat of Lot 1, Marvin's Gardens, a one (1) lot single-family residential subdivision on 22.057 acres. All lots in the subdivision are proposed to have individual water and septic systems. The property is located at 150 Marvin's Way.
<b>STAFF REPORT</b>	Rebecca Shaw reviewed Staff Report FPP 06-03 for the Board.
<b>APPLICANT</b>	Erica Wirtala, of Sands Surveying, represented the applicant. She handed out photos to the Board and referenced a plat map while talking about the history of the development and the West Valley plan.
<b>AGENCIES</b>	None present.
<b>PUBLIC COMMENT</b>	Ginny Coyle, 120 Marvins Way, wanted to see a deed restriction placed on this parcel.
<b>STAFF REBUTTAL</b>	None.
<b>APPLICANT REBUTTAL</b>	None.
<b>MAIN MOTION</b>	DeKort made a motion seconded by Dziza to adopt Staff Report FPP 06-03 as findings of fact as amended and recommended approval to the County Commissioners.
<b>MOTION Conditions 1 &amp; 2</b>	Fleming made a motion seconded by Dziza to amend conditions 1 and 2 to read, shall "obtain" a variance instead of shall be "granted" a variance.
<b>ROLL CALL Conditions 1 &amp; 2</b>	On a roll call vote the motion passed unanimously.
<b>BOARD DISCUSSION</b>	<p>Cross talked about the statement on the final plat of the original subdivision stating this parcel could not be further subdivided. He wondered what the value would be in doing it again if it could be changed in the future.</p> <p>Shaw (<i>Staff</i>) said a deed restriction would stand even if the zoning were to change.</p>
<b>MAIN MOTION ROLL CALL</b>	On a roll call vote the motion passed unanimously.

**PRELIMINARY  
PLAT/  
FPP 05-77**

A request by Timothy and Julie Birk, Carol Keys, and William Paullin for Preliminary Plat approval of Meadowbrook Place Subdivision, a one-hundred-seventy-two (172) lot (171 single-family with a 6.29 acre homeowners park) residential subdivision on 48.04 acres. All lots in the subdivision are proposed to have public water and sewer systems. The property is located at 603 Somers Road.

**STAFF REPORT**

Traci Tull reviewed Staff Report FPP 05-77 for the Board.

**BOARD  
QUESTIONS**

Cross asked about the location of the bike path.

**APPLICANT**

Dawn Marquardt, of Marquardt & Marquardt Surveying, represented the applicants. She said this project was presented at the Somers Neighborhood meeting but they didn't receive much feedback. She talked about widening the road, traffic problems, cul-de-sacs, and road connectivity. They have removed the multi-family lots, decreased density, and made other changes to satisfy concerns that were brought up. They intend to "phase out" this development, which will stretch over approximately 15 years. She talked about school enrollment and said the number of students has actually decreased over the past 10 years. She said it's hard to estimate the number of students that would be generated from a certain development. She also read a letter from Kathy Robertson.

Dziza asked about the proposed Homeowner's Park.

Marquardt said it's currently set up as a Homeowner's Park. She said they would be willing to make it public if the County wanted to "take it on."

Hines commented on the Cooper Farms neighborhood plan and said the ratio used to calculate the increase in students for that plan would not be accurate to use for this proposal. Cooper Farms would contain "high scale" homes as opposed to affordable housing, which would make a difference in student enrollment.

Fleming asked if this proposal is outside the proposed Somers neighborhood plan.

Hines asked if the developer had met with community members.

**AGENCIES**

None present.

**PUBLIC  
COMMENT**

Tim Birk (*applicant*), 2239 Lower Valley Rd, said he's trying to place modestly priced housing here. He said they made an effort to promote community involvement and said changes have been made to address concerns. He talked about roads, a bike path, and the park.

Francis Van Rinsum, 595 Somers Rd, said he's lived in Somers all his life. He is concerned with drainage. He is against retention ponds and doesn't think neighbors should have to worry about the contaminated run-off. He used to farm this ground and said the proposed location of the park is mostly slough. He said Weed & Parks will not be taking on any more parks according to Jed Fisher. He talked about trails, infrastructure, fire dept/schools, and high density. He compared the growth rate of the city of Kalispell to the Somers area to demonstrate the impact; he doesn't want to see the "sleepy hollow" town of Somers ruined.

Doug Young, 1851 North Hill, talked about a decrease in agricultural land. He said he would like to see density concentrated in one area where city water/sewer services are available instead of spread out. He said this creates affordable housing for working class people.

Dan Bangeman, 543 N Juniper Bay Rd, talked about this development hooking up through Lakeside Sewer and doesn't know where they are going to expand to handle an increase in capacity. He thinks the development is too dense and thinks they should remove the parkland and add some boulevards throughout the development.

Alison McCarthy, 551 N. Juniper Bay Rd, thinks the developers have integrity but doesn't think the planning is sufficient for a development of this size. She thinks the density is way too high, is concerned with traffic, and would like to see more planning.

Jim Coolidge, 245 Kirby Ln, agreed with Doug Young. He thinks density should be concentrated in one area. He talked about affordable housing and the proximity to the school. He is in favor.

Ken Torgerson, 233 N Juniper Bay, agreed with what was previously said by the people in favor. He said this development is close to the school and sewer/water services are available. He said the applicant has worked to address concerns and the density.

Kim Orr, 5655 Hwy 93 S, talked about setting precedence in the area. She talked about developments in the area with small lots. She said the developers are positive and have made tremendous changes.

Bob Hundon, 206 West Ridge Dr, talked about the enrollment in schools, public water/sewer issues, density issues, and the volunteer fire department.

Brian Peterson, 45 Summit Ave, was in favor. He said we need more affordable housing. He said he moved to Somers because it was affordable and that it has a history of being a "working man's town". He said he used to live in Jackson, WY where affordable housing is now in the \$400,000 range and he's afraid that might happen here.

Brandi Eaton, 667 Somers Rd, was in favor. She thinks issues that were brought up can be addressed. She said we need affordable housing in the area.

Terri Wing, Superintendent Somers School Dist, spoke neither in favor nor against. She talked about the Somers school and read some statistics. She said the enrollment in their school has increased. She would like to see developers step up and solve some problems that come with an increase in students.

Donald Baughman, 10 Somers Rd, was concerned with the “flashing yellow” light onto Hwy 93 and access issues. He talked about the fire station, groundwater, drainage, parkland/wetland, and affordable housing.

Fran Ruby, 85 Spring Creek, talked about a levy coming up May 2<sup>nd</sup>, which is important to the school. She is concerned with density and thinks this will have a negative impact on the quality of education at Somers school. She asked the Board to not allow this dense of a development in this area.

Ed Estes, 785 Farm Rd, was in favor of this development. He said the Somers school will have to expand at some point and said if people are so concerned with the children they should come up with some money to help the school expand.

Earl Bach, 334 N Juniper Bay, said he didn't receive notification of this project. He said truth needs few words; the other side needs a whole bunch. He said Somers is very unique; it's not just another town and to ruin it would be sinful. He said the school and sewer district can't handle more density. He talked about Somers Road and said that everyone in the Somers area should have been notified.

Doug Buffington, 3695 Lower Valley Rd, was in favor. He would rather see density close to town and a school rather than 5-acre tracts spread out throughout Lower Valley.

Phil Neuharth, 275 Morning View, talked about townhouses, affordable housing, and higher density subdivisions. He said working-class people should be able to find affordable places instead of renting. He said it's a good plan and is in favor. He is also in favor of the working-guy having a place to “hang his hat.”

Craig Powell, represented Tiebuckers Homeowner's Association. He said the concerns the neighborhood had, has been met. He said about 2/3 of the Tiebuckers neighborhood are in favor. He talked about additional homes creating more tax dollars to use for the school. He talked about the price of homes in the area and said that most working people can't afford them.

Gordon Zuelsdorff, 389 N Somers Rd, said this project is in his backyard, and he understands you have to put people somewhere. He said water and sewer are available and the school is close. He said it would create additional traffic but said if this doesn't go here, something else will. He is in favor.

Ellie Allen, 785 Somers Rd, was concerned with density and would like to see a play area located in the middle of the development so it's more accessible. She said Tiebuckers is west and this project is located on the south. She would like to see a high, strong fence put in place. She talked about Somer's school and said it wouldn't be cheap to upgrade. She talked about weed control and would like to see a condition put in place since they are going to be doing phasing.

John Burgess, Summit Ave, read a letter from his neighbors, Jim & Ruth Hellen. He said he's on the Sewer/Water Board and they do have capacity. He read statistics regarding growth and said people will come. He said a four-lane highway is an easy access for traffic flow but agreed they need a stoplight there instead of a flashing light. He said this wouldn't impact downtown Somers. He was in favor of this plan but said some concerns may need to be addressed. He said this development would help keep Somers "a working community".

Dennis Hatton, 249 Breezy Point, said Somers is going to change. He said most people in the community are concerned with the density. He would like to see projects like these be presented with an artist's rendering so people could see what the finished product would look like. He said plenty of notice was given in regards to this proposal and people need to be involved in what's going on in their community. They need to figure out an overall design for the Somer's area because development is happening. He said the overall plan needs to be "tweaked", density needs to be decreased, and buffering should possibly be added.

Denise Davies, 115 Pavilion Hill, doesn't think they have made significant changes to the plan. She thinks the plan still needs a lot of work. She talked about impact fees and said the developers should be accountable.

Lee Maxwell, 114 Pikes Peak, was opposed to the concept of this plan. He said it lacks a "community feel." He would like to see clustered housing instead of such a dense layout. He thinks the design of the plan is for profit, not community.

Catherine Maxwell, 114 Pikes Peak, talked about the school and said some children would have to be bussed to Lakeside. She said this development is poorly designed and unimaginative. She doesn't see any guarantee these lots will be affordable. She said "working people" would have to drive to work as there aren't really any jobs in Somers. She doesn't think a need for housing in the area has been shown.

**STAFF  
REBUTTAL**

Staff mentioned making a condition regarding sidewalks within the development.

**APPLICANT  
REBUTTAL**

Tim Birk said all the roads within the subdivision would have sidewalks; they are trying to promote conductivity.

Dawn Marquardt said the applicants are very committed to working with the agencies. She is not against impact fees but thinks we need to come up with numbers that correlate with the impact. She said they are trying to make this development affordable and said density comes with affordability. She said this development will take 15 years to build out.

**MAIN MOTION**

Lapp made a motion seconded by Toavs to adopt Staff Report FPP 05-77 as findings of fact and recommended approval to the County Commissioners.

**BOARD  
DISCUSSION**

Larsen addressed several concerns of the audience. He addressed the notification process and said Staff met the requirements of State law.

Hines referred to this project as a “cookie cutter” development and said there was no way the Board could pass this on to Commissioner’s without a traffic study. He is unclear as to what the road improvements would be. He talked about Lakeside Water/Sewer and said they would be at capacity with the Cooper Farms development. He said the Lakeside Water & Sewer district needs to provide concrete information to confirm they can handle the additional capacity. He talked about Somers Middle School and said they don’t have the capacity to handle additional students; they will be bussed to Lakeside and possibly even Kalispell and Bigfork. He talked about the Lakeside-Somers Fire Department and said they are having problems finding volunteers to serve. He said no covenants have been brought forward to address what may/may not be placed in this development. He talked about the bike path and drainage.

Fleming said she went to the Lakeside Sewer District meeting today. Lakeside said they were willing to join together with Somers to form one sewer district; Somers was unwilling. They also offered to sell more capacity to Somers but they weren’t willing to buy it. She said they need a letter from both Somers and Lakeside Sewer districts stating they will serve this development. She talked about the amount of houses that would result from the Cooper Farms development and discussed affordable housing. She said the Board can’t put a condition in place regarding fencing because the area is unzoned. She talked about parkland vs. cash-in-lieu, schools, road conditions, and traffic.

Toavs talked about the Somers sewer capacity and wondered why a letter from Lakeside would be necessary if there’s already a letter from Somers stating they have the capacity.

Grieve (*Staff*) pointed out the letter from Somers is not a “will serve” letter, it just states the capacity exists.

The Board continued to discuss water/sewer capacity.

Larsen said this concern could be addressed by means of a condition.

Lapp said it’s appropriate to address these concerns via a condition of the preliminary plat; this is just the first step. He said the location is good for this project because it’s close to the school and the fire department. He thinks people there may have an “elitist” attitude because they don’t want anyone coming to their area to live.

Dziza asked Grieve (*Staff*) about Urban standards.

Grieve (*Staff*) talked about density and affordability. He said Somers is an unzoned area so there are no zoning restrictions.

Toavs asked if a Road Maintenance agreement and Covenants are in place for this development.

Larsen said he didn’t want to talk about covenants because the Board was advised against it.

Toavs asked if curbs, gutter, and sidewalks are proposed for this development.

Marquardt said “all of the above” are proposed as indicated on the application.

Larsen mentioned runoff, weeds, density, parks, fire dept, schools, retention ponds, and the sewer districts were concerns addressed during public comment. He said the Board addresses these concerns via conditions and trusts the various agencies to do their jobs. He said some balancing may need to be done and the developers are giving a lot of things such as sidewalks, bike paths, and fire hydrants.

DeKort doesn’t think the concerns can be addressed by conditions; he said the applicant is in the process of solving the problems. He was concerned with density, drainage, and the location of the park.

Cross said the impact on Somers is undeniable. He talked about density and affordability. He said the density is guaranteed whereas the affordability is subjective. He thinks the Somers residents are receptive to “something” perhaps just not this development. He thinks they are close to coming up with a good plan and said the developer can sit down with Staff and perhaps come up with something more satisfactory to the community.



Dziza agreed with a lot of what Cross said. He doesn't think it's unreasonable for people to want to know what the finished product would look like. He said he's driven through places like Empire Estates and said perhaps that's what scares them. He doesn't like the idea of the Homeowner's Park and would rather see it designated as open space and have the developer pay cash-in-lieu. He isn't against the density but thinks they can come up with a better plan.

Hines said the project has merit but doesn't think it can move forward at this point.

The Board discussed their options and discussed how to proceed. They discussed amending conditions so they could be presented to the Commissioners.

**MOTION**  
**Condition #10**

Fleming made a motion seconded by Hines to amend condition #10 to require a "will serve" letter from Somer's and Lakeside public water & sewer.

**ROLL CALL**  
**Condition #10**

On a roll call vote the motion passed unanimously.

**MOTION**  
**Condition #28**

Fleming made a motion seconded by Hines to add condition #28 to require the applicant to obtain an MDOT Systems Impact Study.

**ROLL CALL**  
**Condition #28**

On a roll call vote the motion passed unanimously.

**MOTION**  
**Condition #29**

Fleming made a motion seconded by Dziza to require the applicant to construct sidewalk, curb, and gutter as represented on the plan.

**BOARD**  
**DISCUSSION**

Toavs asked about curbs and said the runoff would have to go somewhere.

Grieve (*Staff*) addressed the issue and explained how the "new" style of curb works.

**ROLL CALL**  
**Condition #29**

On a roll call vote the motion passed unanimously.

**MOTION**  
**Condition #30**

Fleming made a motion seconded by DeKort to add condition #30 requiring the applicant to pay cash-in-lieu of parkland.

**BOARD**  
**DISCUSSION**

Lapp talked about condition #25 regarding parkland and maintenance. He said State law allows the applicants to build an adequate park. If the applicants dedicated a 6-acre park, and showed it would work and function as a park, he didn't think the Board could ask for that and make them pay. If they did a combination of both it couldn't exceed the amount.

**ROLL CALL**  
**Condition #30**

On a roll call vote the motion passed 5-3 with Larsen, Toavs, and Lapp dissenting.

**MOTION**  
**Condition #25**

Fleming made a motion seconded by Dziza to change the word “park” to “open space” in condition #25.

**BOARD**  
**DISCUSSION**

Dziza talked about open space vs. a maintained park.

Lapp had an issue with asking the developer to dedicate and maintain 6-acres of open space and pay cash-in-lieu.

Fleming said the Board did that same thing last month.

Lapp said yes, but it wasn’t an adequate park.

Fleming said he couldn’t build on it because it’s in a floodplain.

Grieve (*Staff*) read a section of the Subdivision Regulations to clarify.

The Board continued to discuss State law and what’s required.

**ROLL CALL**  
**Condition #25**

On a roll call vote the motion passed 6-2 with Larsen and Lapp dissenting.

**MOTION**  
**Condition #31**

Toavs made a motion seconded by Dziza to add condition #31 to eliminate the two north cul-de-sacs and connect them to make a through street.

**BOARD**  
**DISCUSSION**

Toavs talked about the cul-de-sacs.

**ROLL CALL**  
**Condition #31**

On a roll call vote the motion passed unanimously.

**BOARD**  
**DISCUSSION**

Toavs said a lot of the issues that were brought up were fixed with the added and amended conditions.

**MAIN MOTION**  
**ROLL CALL**

On a roll call vote the motion failed 3-5.

**BOARD**  
**DISCUSSION**

Larsen asked the Board if they wanted to make a motion to deny.

Grieve (*Staff*) reminded the Board that if they choose to recommend denial, they would lose all their conditions.

The Board discussed how they wanted to proceed.

Cross thought a motion should be made because that’s what was discussed at their workshop.

**MOTION**  
**To Deny**

Cross made a motion seconded by DeKort to adopt Staff Report FPP 05-77 as findings of fact and recommended denial to the County Commissioners.

**BOARD**  
**DISCUSSION**

Grieve (*Staff*) said that you can't adopt findings of fact and recommend denial. The findings of fact are favorable and there's a recommendation to approve at the end of the report.

Larsen said the findings of fact could be amended.

The Board and Staff discussed how to proceed.

**ROLL CALL**  
**To Deny**

On a roll call vote the motion failed 1-7 with Cross in favor.

**OLD BUSINESS**

Cross brought up what was discussed at the Board's workshop regarding motions.

The Board discussed, at length, the technicality of making a motion and whether or not they have to make a motion to approve, conditionally approve, or to deny. The Board and Staff discussed findings-of-facts. They asked for clarification from Staff; Grieve said he could make up a "cheat sheet" after talking with the County Attorney.

Hines asked if the Board could have the "cheat sheet" next Wednesday at the Growth Policy joint meeting, prior to the May 3, 2006 Riverdale Workshop.

Lapp talked about new State law regarding parkland. He said money given as cash-in-lieu of parkland can be given to a school district in close proximity.

Fleming brought up a letter, written by Kathy Robertson, which was read during public comment for Meadowbrook Place. She thought it was inappropriate for a Board member to privately meet with the developer of a project.

The Board discussed the situation. Several Board members shared their opinions.

Dziza suggested the matter of "private meetings" be discussed at the Board's next retreat.

Grieve (*Staff*) said he would look into it as well.

Toavs was confused and didn't understand why you can go to the Plat Room and research a property but not meet with a developer directly.

Fleming wanted the Board to act on changing the order of the meetings, as written in their by-laws, so public comment is at the

beginning of each meeting.

**MOTION**  
*Public Hearing*  
*Conduct*

Fleming made a motion seconded by DeKort to change the order of the Rules of Conduct for Public Hearings, as written in the by-laws, so public comment begins after the Pledge of Allegiance.

**OLD BUSINESS**  
**CONTINUED...**

The Board discussed time limit on public comment.

Hines said they are allowed to “ramble on” by State law.

Larsen said he could ask people to limit their comments to 5 minutes but they couldn’t be denied more time if requested.

The Board continued to discuss public comment.

**ROLL CALL**  
*Public Hearing*  
*Conduct*

On a roll call vote the motion passed 7-1 with Toavs dissenting.

**NEW**  
**BUSINESS/**  
**PUBLIC**  
**COMMENT**

Grieve (*Staff*) reviewed the Board’s May meetings and gave them a “heads up” on how many items are on the agendas. He briefed them about the joint meeting with the LRPTF on Wednesday.

Hines talked to the Board about their June agenda and said they will have four meetings that month.

Sears-Tull (*Staff*) said more and more large developments are coming to unzoned areas. From a planner’s perspective, it’s scary that people could come in and put up a bunch of apartments, and the planning office couldn’t do anything about it.

Grieve (*Staff*) said enforcing land use decisions based on preliminary plat approval and the conditions of final plat would be tough. He also talked about public safety and the significance of setbacks in regards to fire safety.

The Board and Staff discussed covenants, PUD’s, artist renderings, unzoned areas, setbacks, enforcement of conditions and zoning violations, zone changes, urban standards, and deed restrictions.

Sears-Tull (*Staff*) asked the Board if this would be Somer’s third attempt at putting a neighborhood plan together. She said more people are going to be getting involved because of the things going on.

Toavs said comments made regarding all this “stuff” went too far; exaggerating what could possibly be done on this property and bringing it to the world’s attention was unnecessary because what was talked about could happen in any unzoned area.

Grieve (*Staff*) said at a density such as this, some of the impacts that can be mitigated through zoning are more likely to be seen than in an area where density is 5-acre lots.

Toavs wondered if it was appropriate for Staff to point out issues the night a proposal's presented to the Board. He said to be fair, it should be brought up at each meeting.

Grieve (*Staff*) talked about fire issues and wanted to be on the record to let people know he does his job regarding public health and safety, whether people listen or not.

Lapp doesn't think there should be anything less than a 10-ft setback.

The Board and Staff continued to discuss setbacks and zoning enforcement.

Grieve (*Staff*) said the FCPZ office gets many calls a day from people wanting to know how to do things right. He said the majority of people want to know what the regulations are and are willing to comply.

Toavs asked if there would be a legal way to address setbacks.

Grieve (*Staff*) said a statement could be placed on the face of the final plat, which basically lets potential buyers know what to expect

The Board and Staff talked about "no build" zones.

**ADJOURNMENT** The meeting was adjourned at approximately 10:45 p.m. on a motion by DeKort seconded by Larsen. The next meeting will be held on May 10, 2006 @ 6 p.m.

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Jeff Larsen, President

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Jill Goodnough, Recording Secretary

APPROVED AS SUBMITTED/CORRECTED: 5/24/06